



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 6

### DISCLOSURE

#### *Court rulings on disclosure: appellate proceedings*

#### **140 Review of ruling under section 139**

- (1) This section applies where—
  - (a) the court has made a ruling under section 139 that an item of information (the “information in question”) does not fall within section 133(3), and
  - (b) during the relevant period—
    - (i) the appellant becomes aware of information (“secondary information”) that was unavailable to the court at the time it made its ruling, and
    - (ii) the appellant considers that, had the secondary information been available to the court at that time, it would have made a ruling that the information in question does fall within section 133(3).
- (2) The appellant may apply to the court which made the ruling for a review of the ruling.
- (3) An application under subsection (2) is to be made in writing and must set out—
  - (a) where the appellant is or was charged with more than one offence, the charge or charges to which the application relates,
  - (b) a description of the information in question and the secondary information, and
  - (c) the appellant’s grounds for considering that the information in question falls within section 133(3).
- (4) On receiving an application under subsection (2), the court must appoint a hearing at which the application is to be considered and determined.

- (5) However, the court may dispose of the application without appointing a hearing if the court considers that the application does not—
- (a) comply with subsection (3), or
  - (b) otherwise disclose any reasonable grounds for considering that the information in question falls within section 133(3).
- (6) At a hearing appointed under subsection (4), the court must give the prosecutor and the appellant an opportunity to be heard before determining the application.
- (7) On determining the application, the court may—
- (a) affirm the ruling being reviewed, or
  - (b) recall that ruling and—
    - (i) make a ruling that the information in question, or any part of the information in question, falls within section 133(3), and
    - (ii) where the appellant is or was charged with more than one offence, specify the charge or charges to which the ruling relates.
- (8) Except where it is impracticable to do so, the application is to be assigned to the judges who dealt with the application for the ruling that is being reviewed.
- (9) Nothing in this section affects any right of appeal in relation to the ruling being reviewed.
- (10) In this section, “relevant period”, in relation to an appellant, means the period—
- (a) beginning with the making of the ruling being reviewed, and
  - (b) ending with the relevant conclusion.
- (11) In subsection (10), “relevant conclusion” has the meaning given by section 134(5).